

AMENDED IN SENATE AUGUST 26, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 459

Introduced by Assembly Member Negrete McLeod

February 14, 2003

An act to amend Sections ~~22792 and 22793 of, and to add Sections 22793.3 and 22793.4 to, the~~ 22816.7, 22816.8, and 22857 of, to add Section 20057.2 to, and to repeal Sections 22754.4, 22810.1, and 22810.3 of, the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 459, as amended, Negrete McLeod. Public Employees' Medical and Hospital Care Act.

(1) The Public Employees' Medical and Hospital Care Act permits a public agency, as defined, to participate in, and make its employees members of, the Public Employees' Retirement System by contracting with the Board of Administration of the Public Employees' Retirement System.

This bill would include within the definition of "public agency" for these purposes any nonprofit corporation that meets specified membership requirements and that obtains a specified written advisory opinion from the United States Department of Labor.

(2) The Public Employees' Medical and Hospital Care Act permits an annuitant whose retirement allowance is insufficient to pay his or her

contributions for the plan in which he or she is enrolled, to retain that coverage by paying a complementary annuitant premium, as specified.

This bill would delete those provisions.

(3) The Public Employees' Medical and Hospital Care Act specifies that a Member of the Legislature, an elective constitutional officer of the state, or an inactive member of the Legislators' Retirement System, as specified, who has at least 8 years of credited service and meets other specified criteria, is eligible to enroll in the Public Employees' Retirement System.

This bill would instead require 6 years of credited service to qualify for this eligibility.

(4) The Public Employees' Medical and Hospital Care Act provides that a contracting agency may establish a lesser monthly employer contribution for annuitants, if that contribution is annually increased by 5% of the monthly employer contribution, as specified.

This bill would delete the annual 5% increase requirement, and would instead permit the lesser monthly employer contribution to be based on a yearly calculation, as specified.

~~The Public Employees' Medical and Hospital Care Act permits the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefits plans for employees and annuitants for a uniform term of at least one year, not to exceed 3 years.~~

~~This bill would instead require the Board of Administration to contract for these plans through multiyear contracts, and would eliminate the 3-year limitation on these contracts. The bill would require any carrier that contracts with the board to provide these plans to further provide specified disease management programs and incentives for the enrollment thereof, which include, but are not limited to, the elimination of drug refill copayments for patients with chronic diseases who enroll in these programs and who follow a specified regimen. The bill would also create a Public Employees' Medical and Hospital Care Act Review and Advisory Panel to monitor compliance with these provisions and report certain recommendations and findings to specified legislative committees.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1.—Section 22792 of the Government Code is
2

1 *SECTION 1. Section 20057.2 is added to the Government*
2 *Code, to read:*

3 *20057.2. Notwithstanding Section 20057.1, the following*
4 *applies:*

5 *(a) "Public agency" also includes any nonprofit corporation*
6 *whose membership includes employees of public agencies defined*
7 *in Section 20056.*

8 *(b) The board may require any organization referred to in*
9 *subdivision (a) that first makes a request on or after January 1,*
10 *2006, to enter into a contract with the board pursuant to Section*
11 *20460, to obtain a written advisory opinion from the United States*
12 *Department of Labor stating that the participation of the officers*
13 *and employees of the organization in this system does not affect*
14 *this system's exemption as a governmental plan under the federal*
15 *Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec.*
16 *1001 et seq.), in order to qualify as a public agency within the*
17 *meaning of this part.*

18 *SEC. 2. Section 22754.4 of the Government Code is repealed.*
19 ~~*22754.4. As used in this part, "complementary annuitant*~~
20 ~~*premium" means the additional premium paid by annuitants*~~
21 ~~*whose allowances fall below the premium required to maintain*~~
22 ~~*their chosen health benefits plan.*~~

23 *SEC. 3. Section 22810.1 of the Government Code is repealed.*
24 ~~*22810.1. Any annuitant whose retirement allowance is not*~~
25 ~~*sufficient to pay his or her contributions for the plan in which he*~~
26 ~~*or she is enrolled may retain his or her plan coverage if the*~~
27 ~~*annuitant, commencing on or after the effective date of this*~~
28 ~~*section, pays to the board the balance of the contributions plus the*~~
29 ~~*related administrative costs, as determined by the board.*~~

30 ~~*The annuitant shall pay the complementary annuitant premium*~~
31 ~~*by remitting to the board quarterly payments in advance. In the*~~
32 ~~*event payments are not received by the board by the 10th of the*~~
33 ~~*month for the following month, coverage shall be terminated and*~~
34 ~~*shall not be resumed until the next open enrollment period.*~~

35 ~~*Upon receipt of a written application pursuant to this section,*~~
36 ~~*the benefits provided by this section shall commence with the first*~~
37 ~~*day of the month following receipt of the application and payment*~~
38 ~~*as required by the board.*~~

39 ~~*The board has no duty to identify, locate, or notify any annuitant*~~
40 ~~*who may be eligible for the benefit provided by this section.*~~

1 SEC. 4. Section 22810.3 of the Government Code is repealed.
2 ~~22810.3. Any complementary annuitant premium or any~~
3 ~~balance of unpaid health plan premiums received pursuant to~~
4 ~~Section 22810.1 which has accrued and remained unpaid at the~~
5 ~~time of the death of an annuitant shall be paid in accordance with~~
6 ~~the sequence prescribed in Section 21506.~~

7 SEC. 5. Section 22816.7 of the Government Code is amended
8 to read:

9 22816.7. (a) As used in this section:

10 (1) “Exempt employee” means an employee exempt from
11 civil service pursuant to subdivision (a), (c), (f), or (g) of Section
12 4 of Article VII of the California Constitution, or an exempt
13 employee of the Attorney General or Legislative Counsel
14 appointed pursuant to subdivision (m) of Section 4 of Article VII
15 of the California Constitution.

16 (2) Notwithstanding Sections 22754, 22810, and 22953,
17 “annuitant” means:

18 (A) A Member of the Legislature or an elective officer of the
19 state whose office is provided by the Constitution, who has at least
20 ~~eight~~ six years of credited service, who permanently separates
21 from state service both on or after January 1, 1988, and not more
22 than 10 years before or 10 years after he or she attains his or her
23 minimum age for service retirement under any state retirement
24 system, who retires more than 120 days after separation from
25 employment, and who is receiving any retirement allowance under
26 any state retirement system to which the state makes contributions.

27 (B) An exempt employee, as defined in paragraph (1) of this
28 subdivision who has at least 10 years of credited state service
29 which includes at least two years of credited service while such an
30 exempt employee, who permanently separates from state service
31 both on or after January 1, 1988, and not more than 10 years before
32 or 10 years after he or she attains his or her minimum age for
33 service retirement under any state retirement system, who retires
34 more than 120 days after separation from employment, and who
35 is receiving any retirement allowance under any state retirement
36 system to which the state makes contributions.

37 (3) Notwithstanding Sections 22754, 22810, and 22953, “state
38 employee” means:

39 (A) A Member of the Legislature or an elective officer of the
40 state whose office is provided by the Constitution, who has at least

~~eight~~ six years of credited service, who permanently separates from state service both on or after January 1, 1988, and more than 10 years before he or she would attain his or her minimum age for service retirement under any state retirement system, but who elects pursuant to law to remain a member of a state retirement system supported, in whole or in part, by state funds, other than the University of California Retirement System.

(B) An exempt employee, as defined in paragraph (1) of this subdivision who has at least 10 years of credited state service which includes at least two years of credited service while such an exempt employee, who permanently separates from state service both on or after January 1, 1988, and more than 10 years before he or she would attain his or her minimum age for service retirement under any state retirement system, but who elects pursuant to law to remain a member of a state retirement system supported, in whole or in part, by state funds, other than the University of California Retirement System.

(b) Any person who becomes an annuitant, as defined in subdivision (a), may, upon assuming payment of any employee contributions, enroll in a health benefits plan and dental care plan without discrimination as to premium rates or benefit coverage at which time the state shall assume payment of employer contributions for that insurance coverage and the person shall thereafter be deemed an annuitant for the purposes of this part and Part 6 (commencing with Section 22950), notwithstanding Sections 22754, 22810, and 22953.

(c) A state employee, as defined by subdivision (a), who was on the effective date of his or her permanent separation from state service enrolled in a health benefits plan or dental care plan under this part or Part 6 (commencing with Section 22950), shall, upon the permanent separation from state service, be entitled to have his or her coverage continued without discrimination as to premium rates or benefits coverage upon assuming payment of the contributions otherwise required of the former employer on account of his or her enrollment and any employee contribution during the period he or she is not yet receiving his or her retirement allowance. Any election to continue coverage under this subdivision shall be made within 60 days of permanent separation. The state employee shall also pay an additional 2 percent of the contribution payments required to be paid by the state employee

1 pursuant to this section to cover the administrative costs incurred
2 by the public retirement system and the Department of Personnel
3 Administration in administering the program provided by this
4 section.

5 (d) Upon retirement and receipt of retirement allowance, a state
6 employee described in subdivision (c) may elect to continue to be
7 covered by the health benefits plan and dental care plan without
8 discrimination as to premium rates or benefits coverage at which
9 time the state shall assume payment of employer contributions for
10 that insurance coverage and the person shall thereafter be deemed
11 an annuitant for the purposes of this part and Part 6 (commencing
12 with Section 22950).

13 (e) A person who meets all of the conditions in subparagraph
14 (A) or (B) of paragraph (2) of subdivision (a), other than the
15 condition of receiving a retirement allowance under a state
16 retirement system to which the state makes contributions, may
17 elect to have his or her coverage continued, within 60 days of
18 permanent separation from state service, in a health plan and dental
19 care plan provided to annuitants. Upon that election, the coverage
20 shall continue from the date of the permanent separation to the date
21 of retirement unless the coverage is terminated. For those who
22 have separated between January 1, 1989, and the effective date of
23 the amendment of this section made in 1990 in the 1989–90
24 Regular Session, the election to enroll in a health plan and dental
25 care plan shall be made within three months after the effective date
26 the amendment of this section made in 1990 in the 1989–90
27 Regular Session. The health and dental benefits shall be without
28 discrimination as to premium rates or benefits coverage upon
29 assuming payment of the contributions otherwise required of the
30 former employer on account of his or her enrollment and any
31 employee contribution during the period he or she is not yet
32 receiving his or her retirement allowance. The individual shall also
33 pay an additional 2 percent of the contribution payments required
34 to be paid pursuant to this subdivision to cover the administrative
35 costs incurred by the public retirement systems, the Department of
36 Personnel Administration, the Senate Committee on Rules, and
37 the Assembly Committee on Rules, in administering the benefits
38 provided by this subdivision. A person who receives coverage
39 pursuant to this subdivision who subsequently terminates that
40 coverage shall not be allowed to reenroll pursuant to this



subdivision. Continuation of coverage or enrollment or termination under this subdivision does not affect an annuitant's rights under subdivision (b). The benefits authorized by subdivision (b) and this subdivision are separate and distinct benefits.

(f) There is no duty to locate or notify any person who may be eligible to enroll pursuant to this section.

SEC. 6. Section 22816.8 of the Government Code is amended to read:

22816.8. Any person who is an inactive member of the Legislators' Retirement System pursuant to Section 9355.2 and who has at least ~~eight~~ *six* years of service credit may, upon assuming payment of all employee and employer contributions and an additional 2 percent thereof for the administrative cost incurred by the board and the Department of Personnel Administration in administering this section, enroll in the health benefits plan and dental care plan provided to members of the Legislators' Retirement System and, upon retirement shall thereafter be deemed an annuitant for purposes of this part and Part 6 (commencing with Section 22950), notwithstanding Sections 22754, 22810, and 22953.

Any person who, on January 1, 1989, is eligible to elect to enroll pursuant to this section shall exercise that election on or before April 30, 1989.

No person who enrolls pursuant to this section and subsequently terminates that enrollment may reenroll pursuant to this section.

SEC. 7. Section 22857 of the Government Code is amended to read:

22857. A contracting agency including, *but not limited to*, a school district, county board of education, personnel commission of a school district, or a county superintendent of schools that has elected to be subject to this part:

(a) Shall by resolution establish the employer contribution for employees and the employer contribution for annuitants. The resolution shall be filed with the board and the contribution shall be effective at the time that is provided in board regulations.

(b) (1) May, notwithstanding *the equal contribution requirement of* Section 22825, establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants ~~shall be annually increased by~~

1 equals an amount not less than the number of years that the
2 contracting agency has been subject to this section multiplied by
3 5 percent of the current monthly employer contribution for
4 employees, until the time that the employer contribution for
5 annuitants equals the employer contribution paid for employees.

6 (2) This subdivision shall only apply to agencies ~~who~~ that first
7 become subject to this part on or after January 1, 1986.

8 amended to read:

9 ~~22792. (a) The board may, without compliance with any~~
10 ~~provision of law relating to competitive bidding, enter into~~
11 ~~contracts with carriers offering health benefits plans or with~~
12 ~~entities offering services relating to the administration of health~~
13 ~~benefits plans. Every contract for health benefits plans shall be a~~
14 ~~multiyear contract. Every contract with entities providing~~
15 ~~administrative services with respect to the operation of the board's~~
16 ~~self-funded plan shall be on those terms as the board in its~~
17 ~~discretion deems necessary or desirable.~~

18 ~~(b) The board may fix the beginning and ending dates of~~
19 ~~contracts with carriers of health benefits plans and with entities~~
20 ~~offering services in connection with the administration of health~~
21 ~~benefits plans in a manner it deems consistent with administration~~
22 ~~of this part. Irrespective of any agreed-upon termination date, the~~
23 ~~board may extend a contract for a reasonable period of time,~~
24 ~~subject to existing terms and conditions or any new terms and~~
25 ~~conditions that are agreed upon.~~

26 ~~SEC. 2. Section 22793 of the Government Code is amended~~
27 ~~to read:~~

28 ~~22793. (a) Each contract shall contain a detailed statement of~~
29 ~~benefits offered and shall include the maximums, limitations,~~
30 ~~exclusions, and other definitions of benefits as the board may deem~~
31 ~~necessary or desirable.~~

32 ~~(b) No contract may be made or plan approved that excludes~~
33 ~~any person on account of that person's physical condition, age,~~
34 ~~race, or other status at the time of original group enrollment.~~
35 ~~Transfer of enrollment in any plan shall be open to all employees~~
36 ~~and annuitants in accordance with Section 22813.~~

37 ~~(c) No contract may be made or plan approved that does not~~
38 ~~offer to each annuitant whose enrollment in the plan is terminated~~
39 ~~other than by cancellation of enrollment, or each employee whose~~
40 ~~enrollment in the plan is terminated other than by cancellation of~~

1 enrollment, voluntary separation from state service, or dismissal
2 from state service for cause, the option to convert, without
3 evidence of good health and within the time limits that are
4 prescribed by the carrier and approved by the board, to a nongroup
5 contract providing health benefits. An employee or annuitant who
6 exercises this option shall pay the full periodic charges of the
7 nongroup contract, on the terms or conditions that are prescribed
8 by the carrier and approved by the board.

9 (d) No contract may be made or plan approved that does not
10 provide for grievance procedures to protect the rights of
11 employees and annuitants.

12 (e) Each contract shall contain benchmarks for evaluating
13 carrier performance based on current evidence-based “best
14 practice” standards for disease management programs, including,
15 but not limited to, medication adherence for the care of patients
16 with chronic conditions.

17 SEC. 3.—Section 22793.3 is added to the Government Code, to
18 read:

19 22793.3.—Any carrier that contracts with the board pursuant to
20 Sections 22790 and 22792 shall do all of the following in relation
21 to health benefits plans and disease management:

22 (a) Annually provide general patient population information to
23 the board, including, but not limited to, the percentage of target
24 groups enrolled in disease management programs and the degree
25 of patient adherence to their medication regimen.

26 (b) Adopt strategies to increase patient participation in disease
27 management programs. Goals for participation shall be specified
28 for each program year.

29 (c) Adopt activities to prevent the onset of chronic diseases in
30 patients by addressing the medical needs of the large insured
31 population who are infrequently seen by medical staff, including,
32 but not limited to, health assessment activities and programs to
33 identify patients at risk for chronic disease. These activities and
34 programs should involve family members of patients, community
35 health groups, and patient support organizations, when
36 appropriate, to encourage patient participation.

37 (d) Annually provide data to the board concerning trends in the
38 population that have chronic diseases, including, but not limited
39 to, their total pharmacy costs and hospital outpatient and inpatient
40 days per year.

~~(c) Implement chronic disease management programs that include, but are not limited to, the diagnosing of a disease, the prescribing of appropriate and evidence-based drug therapy, the developing and monitoring of treatment plans, the tracking of patient adherence to the prescribed medication regimen, and the long-term followup of patient status, including, but not limited to, treatment costs. The following requirements shall also be imposed:~~

~~(1) Disease management programs with goals for patient outcomes shall be established for at least the following chronic conditions: arthritis, asthma, congestive heart failure, coronary artery disease, depression, diabetes, high cholesterol, hypertension, and mental illness.~~

~~(2) Incentives shall be provided for patients with chronic diseases or patients at high risk for chronic diseases who enroll in disease management programs and adhere to their treatment regimen.~~

~~(3) Drug refill copayments shall be eliminated for patients with chronic diseases who enroll in disease management programs and adhere to their treatment regimen.~~

~~(f) Provide preventive care programs to the entire patient population, when appropriate, in smoking cessation, obesity prevention and treatment, childhood immunizations, breast cancer screening, prostate cancer screening, and chlamydia screening.~~

~~(g) State on all prescriptions Patient International Classification of Diseases (ICD-9) codes.~~

~~(h) When disease management care is provided, provide a comprehensive patient prescription history.~~

~~(i) Eliminate handwritten prescriptions and implement electronic prescribing technology upon the third year of contracts with the board that are governed by this section.~~

~~SEC. 4. Section 22793.4 is added to the Government Code, to read:~~

~~22793.4. (a) There is hereby established the Public Employees' Medical and Hospital Care Act Review and Advisory Panel consisting of 11 members, as follows:~~

~~(1) The consumer moderator of the Public Employees' Medical and Hospital Care Act Advisory Panel, to serve as panel moderator.~~

~~(2) The Chair of the Health Benefits Committee of the board.~~

1 ~~(3) A person in an administrative capacity from the Department~~
2 ~~of Personnel Administration.~~

3 ~~(4) Four public members appointed by the Senate Committee~~
4 ~~on Rules, one member each from the California Medical~~
5 ~~Association, the California Nurses Association, the California~~
6 ~~Association of Health Plans, and an organization that represents~~
7 ~~active beneficiaries under this part.~~

8 ~~(5) Four public members appointed by the Speaker of the~~
9 ~~Assembly, including a faculty member from a school of pharmacy,~~
10 ~~and one member each from the California Pharmacists~~
11 ~~Association, the Pharmaceutical Research and Manufacturers of~~
12 ~~America, and an organization that represents retired beneficiaries~~
13 ~~under this part.~~

14 ~~(b) The panel shall do all of the following:~~

15 ~~(1) Monitor compliance with subdivision (c) of Section 22793~~
16 ~~and with Section 22793.3 by carriers.~~

17 ~~(2) Review carrier efforts to establish benchmarks and “best~~
18 ~~practice” standards, as described in subdivision (c) of Section~~
19 ~~22793, for disease management proposals prior to their~~
20 ~~presentation to the Health Benefits Committee of the board and the~~
21 ~~board for final contract evaluation and approval.~~

22 ~~(3) Monitor carriers on their compliance with providing~~
23 ~~general patient information regarding enrollment of target groups~~
24 ~~in disease management programs pursuant to Section 22793.3,~~
25 ~~adherence to medication treatment plans, and the provision of~~
26 ~~programs to address the needs of patients at risk for developing~~
27 ~~chronic diseases.~~

28 ~~(4) Work with carriers to set goals, update standards of care for~~
29 ~~the treatment of members with chronic conditions or who are at~~
30 ~~high risk for chronic diseases, and review patient compliance data.~~

31 ~~(5) Review periodic surveys of carriers and members regarding~~
32 ~~the attainment of disease management goals and benchmarks.~~

33 ~~(6) Monitor trends in prescription drug therapy and pharmacy~~
34 ~~expenditures for members, including, but not limited to, clinical~~
35 ~~and utilization data, patient compliance or adherence levels, and~~
36 ~~any concomitant reductions in hospitalizations and outpatient~~
37 ~~hospital days.~~

38 ~~(c) The panel shall annually report its recommendations and~~
39 ~~findings in relation to subdivision (b) to the Senate Committee on~~
40 ~~Public Employment and Retirement and the Assembly Committee~~

1 ~~on Public Employees, Retirement and Social Security. These~~
2 ~~reports shall be submitted in advance of any health benefits plan~~
3 ~~contract award, renewal, or extension, as applicable.~~
4 ~~(d) The term of office for each member shall be a period of five~~
5 ~~years. Each member shall serve without compensation or~~
6 ~~reimbursement of expenses.~~

